

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD SEPTEMBER 21, 2005
PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on September 21, 2005, at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

- Sheriff Gary Butler, Chairman
- Mr. Gary Phelps, representing Director Dora Schriro
- Detective Robert Thompson
- Chief Patricia Huntsman
- Chief Jerry Sheridan
- Dr. Michael Polakowski
- Director Roger Vanderpool
- Assistant Chief Andy Anderson, representing Chief Jack Harris
- Mr. Steve Duplissis, representing Attorney General Terry Goddard
- Sergeant Tamatha Villar
- Ms. Lisa Flores
- Mr. Joseph Duarte

Members Absent:

- Sheriff Clarence Dupnik

Staff in Attendance:

- Tom Hammarstrom
- Lynn Larson
- Gary Maschner
- Ted Brandon
- Steve Jacobs
- Curt Milam
- Marie Dryer
- Sgt. Jim Delung
- Sgt. Rick Watling
- Officer Mark Zbojnowicz
- Ed Felix

Rosalee Fitch
Donna Freed
Lois Sherlock

Counsel for Board in Attendance:

Diana Stabler, Assistant Attorney General

Guest Roster:

Octavio Gradillas, Jr., Nogales Police Department
James Palmer, Coolidge Police Department
Dennis Young, ALEA/ AZ DPS
Paul Felice, ADC
Janet Feltz
Sam Weiss, CARLOTA
Jon Heiden, AZ Police Corps
Mike Bailey, Mesa LEA
Ray Miramontes, Douglas Police Department
Hugo Valenzuela, Douglas Police Department
Rudy Salazar, Douglas Police Department
Luisa Placencio-Lopex
Aldo Lopex
Patrick Robinson
Bob Kaecker
Steve Primack, attorney for Paul Blair
Donna McDaniel, attorney for Jason Pritchard

A. CALL TO ORDER

Chairman Gary Butler convened the meeting at 10 a.m.

B. INTRODUCTIONS

Executive Director Hammarstrom presented out-going board member Lt. Octavio Gradillas of the Nogales Police Department with a plaque in appreciation of his outstanding service to the Arizona law enforcement community while serving as a member of the AZ POST Board. Director Hammarstrom welcomed Lt. Gradillas' replacement, Detective Robert Thompson, to the Board.

C. CONSENT AGENDA

Approved unanimously, motion made by Sgt. Villar, seconded by Chief Huntsman.

1. Minutes of the Regular Board meeting, held on July 13, 2005, were approved as written.

2. Minutes of the Charging Board meeting, held on July 13, 2005, were approved as written.
3. The next scheduled Regular Board meeting is Wednesday, November 16, 2005, 10 a.m. at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.
4. Ministerial Actions:

- a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

| | |
|------------------------|------------------------------------|
| Michael A. Kaufman | Phoenix Police Department |
| Joshua M. Sondrol | Lake Havasu City Police Department |
| Merton J. Davis | Mesa Police Department |
| Rosemary A. Wilson | Cottonwood Police Department |
| Jonathan R. Terpay | Buckeye Police Department |
| Anderson Harvey | Navajo EPA |
| Ronald L. Williams | Yavapai County Sheriff's Office |
| James H. Thwaites, Jr. | Casa Grande Police Department |
| Steven M. Nolan | Phoenix Police Department |
| Gregory L. Larson | Peoria Police Department |

- b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.
- c. Training Program Confirmations: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were confirmed as requested. LIST ATTACHED TO MINUTES.
6. Decertification Case Status Report Update – As of July 29, 2005, the Compliance and Standards Unit has a caseload of 143 active cases. Thirteen cases are ready for initial presentation; 71 cases need further investigation; 15 cases are pending service of or response to a Notice of Complaint or Decision; 9 cases are pending hearing; 14 cases are ready for final action, and 21 cases are waiting for outside action, i.e., a criminal trial or civil service hearing.
7. Income and Expense Statement – July 2005

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|--------------------------|-----------------|
| Funds as of July 1, 2005 | \$ 1,742,617.33 |
| CJEF Revenue | 611,816.45 |

| | |
|---------------------------|-----------------|
| Expenditures/Encumbrances | (288,803.98) |
| Balance for July 31, 2005 | \$ 2,065,629.80 |

D. REGULAR AGENDA

1. Meeting Agenda Management. During the past several years, staff has scheduled and agendized separate meetings on regular Board meeting days; one at 10:00 AM, and a second at 1:30PM. Often the first meeting, which is dedicated to the consideration of new cases, concludes early and Board members are required to wait until 1:30 PM, or leave and come back for the second meeting.

In order to make more efficient use of time on regular meeting days staff will schedule one meeting agenda which includes regular business, final actions, and consideration of new cases. Regular agenda items, such as academy reports will be scheduled first, so that stake-holders and other interested parties can attend at 10:00 AM., and leave if they wish after regular business is concluded. This will provide flexibility for the Board to decide when and if to break for lunch, and for how long. This was an informational item; no action was required by the Board.

2. Training Audit Deficiencies for Navajo Division of Public Safety Officers for Calendar Year 2004. The training deficiencies were corrected, and this item was removed from the agenda.
3. Training Audit Deficiencies for Reserve Officer Juan C. Clark of the Douglas Police Department for Calendar Year 2004. On April 19, 2005, staff conducted the annual training audit for the Douglas Police Department. A total of ten training files were randomly selected for inspection. The training file of Reserve Officer Juan C. Clark was not in compliance in regards to firearms, continuing and proficiency training under POST Rule R13-4-111.

Staff notified the Douglas Police Department verbally and in a written report the day of the audit. According to the department training manager, Officer Clark has failed to attend training or demonstrate the motivation to do so.

On August 3, 2005, Lt. Salazar stated that efforts to correct the training deficiencies of Officer Clark have failed, and his position was that this matter go before the Board.

Director Vanderpool made a motion to restrict Juan C. Clark from carrying or using a firearm on duty, engaging in any law enforcement duties including wearing a uniform or badge, making

arrests, patrolling or operating a marked police vehicle until such time as all ongoing training and firearms qualifications are brought current and proof has been accepted by the Board, seconded by Ms. Flores, motion carried unanimously.

4. Indoor Firearms Range at ALEA. Since the late 1990s the Phoenix Police Department has been aware of and concerned about residential encroachment on the firearms range facilities at the Phoenix Police Academy/ALEA. The Phoenix Police Department has investigated a number of options for updating the range facilities and has concluded that construction of an indoor range will be the most viable option. Funding for such an option is included in current Phoenix Police Department planning for the upcoming City of Phoenix bonding cycle.

Arizona POST has both an interest in, and a responsibility to participate in the funding of any facility improvements at ALEA, the Board's primary basic training academy. During the upcoming year POST staff will be working with the Phoenix Police Department to identify options for POST participation in this project. This is an information item only; no action was required.

5. Notice of Proposed Rulemaking. The recommended changes to AZ POST Rules were completed by Jeanne Hann, Administrative Rules Advisor. Ms. Hann has been retained by an Intergovernmental Service Agreement to assist Board staff in promulgating the Rule changes previously approved by the Board and by the Rules Advisory Committee.

Staff has reviewed the suggested changes, and with the exception of a few editing errors, believes this package is ready to be promulgated. The changes will accomplish the following:

- (1) The Comprehensive Final Exam will become the standard for gradation from the basic peace officer course and for waiver applicants. This will bring to fruition the "licensing" test which the Board has been seeking for several years.
- (2) The second significant change to the Rules will be the establishment of a petition process for agency heads to approach the Board for a finding of "juvenile indiscretion." This petition process will provide agency heads an avenue to request the Board allow them to appoint someone whose behavior would otherwise be disqualifying. The conduct would have had to be over ten years prior and committed before the person turned 18 years of age.

- (3) There are other small changes being made to bring the Rules into compliance with grammatical and administrative rule standards.

All changes have been discussed by the Rules Advisory Group and have been publicly debated to ensure all stakeholders have had an opportunity to express their views. The changes have all been approved by the Rules Advisory Group.

Director Vanderpool made a motion that the Notice of Proposed Rulemaking as drafted by Jeanne Hann, and amended by Board staff, be filed for promulgation, seconded by Chief Sheridan, motion carried unanimously.

6. Request for Waiver of Basic Training – Terry Stewart, Maricopa County Attorney's Office. Mr. Stewart became an Arizona certified peace officer in 1971 as an officer for the Tempe Police Department and kept his certification active until January 1986 when he left the Arizona Department of Transportation. Mr. Stewart became the Director, Arizona Department of Corrections, and on March 29, 1999, was again appointed peace officer status. However, as his peace officer certification had lapsed, Mr. Stewart was required to meet the current basic training requirement. Mr. Stewart met all requirements for certification with exception of the physical conditioning requirement, and subsequently, the Board granted a restricted certification. Mr. Stewart left the DOC on November 8, 2002, at which time his peace officer certification became inactive.

Mr. Stewart has recently been hired as the Chief of Investigations, Maricopa County Attorney's Office, and is making application for his peace officer certification to become active. Once again Mr. Stewart has fulfilled all background and training requirements with the exception of the physical conditioning requirement (POPAT). In his current administrative position, the physical skills and aptitudes reflected by the POPAT are not needed. Mr. Stewart has requested the Board to limit his certification to his current position.

Director Vanderpool made a motion that finding the best interest of law enforcement are served and that public welfare and safety are not jeopardized, move the Board grant a Restricted, Full Authority certification to Chief Terry Stewart. The certification would be restricted from being assigned to any duty likely to result in the need to apply physical force, and further, that the potential for such

need is so remote as to be highly unlikely. The certification would be restricted for the duration of employment at the Maricopa County Attorney's Office, seconded by Mr. Phelps, motion carried unanimously.

E. LEGISLATIVE UPDATE

No report.

F. SUMMARY OF CURRENT EVENTS

Executive Director Hammarstrom reported that the POTF is performing better than projected. Staff intends to apply this additional funding to the priorities that were identified by our Strategic Planning Group, including rural firearm ranges.

G. COMMITTEE UPDATE

No report.

H. REPORTS

1. Basic Training

ALEA – Lt. Dennis Young reported that currently they have four classes on campus, representing 175 recruits from 17 law enforcement agencies.

CARLOTA – Director Weiss reported that Class #91 began on August 14th with 60 recruits enrolled, 53 recruits showed up from 23 agencies. Within the first week, 7 recruits resigned, down to 48 recruits from 21 agencies as of today. They will be graduating on December 16th. Class #92 began September 11th, 68 recruits were enrolled, on the first day 41 recruits showed up, representing 19 agencies. Two recruits resigned on the first day, leaving 39 recruits, representing 18 agencies. They will graduate January 20th. Class #93 begins on January 8th, with 53 recruits enrolled. Class #94 begins on the January 29th with 11 people enrolled. Because of the high number of student enrollment, CARLOTA is moving to a larger facility on campus. Director Weiss also reported that the driving track is finished and operational.

COTA – Commander Jim Branch reported that currently they have seven classes representing 151 cadets. Since the last Board meeting in July, COTA has graduated 128 out of a 179 starts. COTA will celebrate their 20th anniversary on January 27th.

Mesa Academy – Lt. Bailey reported that Class #24 graduated August 26th with 27 cadets; Class #25 is scheduled to begin October 17th with 28 Mesa recruits and 8 or 10 from Scottsdale. Next month they are going to go before a bond committee and request approval to build a new fitness and wellness center at the training facility.

Navajo LETA – Sgt. Simeona reported that they recently graduated a class with 32 recruits. Their next class will start October 3rd with approximately 40 people enrolled.

2. Arizona Police Corps – Director Jon Heiden reported that their academy in North Carolina is doing well. There are 17 individuals attending from four states. Arizona has one cadet attending, and he is doing very well, and they will be graduating December 16th. Police Corps is still waiting on whether or not they will receive funding for 2006.
3. Department of Corrections – Deputy Director Gary Phelps reported that the Department of Corrections did graduate 128 cadets from COTA, but unfortunately they lost over 250 officers in August, and the Department of Corrections currently has 1,300 vacancies. Some complexes are running with 30% vacancy rates and mandated overtime has become an issue. Some shifts are staffed with a 100% of officers working overtime. Until the Department can offer a competitive salary, they will continue to struggle with this problem.
4. Arizona Regional Community Policing Institute – Executive Director Rod Covey reported that the Institute anticipates funding of approximately \$400,000.00 to fund five positions. With existing funds, this should carry the Institute through Calendar Year 2007 to continue the community policing initiatives that are currently being handled by the Institute. The Institute is continuing to do work in the area of Leadership Development, Sharpening the Ethical Edge, and Terrorism Training for Law Enforcement. AZRCPI is also developing Terrorism Training for the Community which will be a 2-hour block. Some new classes that have been added are Volunteers in Policing, Human Trafficking vs. Human Smuggling, and Crime Abatement. Sgt. Christel Boeck continues to teach domestic violence classes. Detective Dan Elting from the Phoenix Police Department has been nominated by the Phoenix office of the FBI for a special award for work he has done in the area of terrorism.

- I. Consideration of initiating complaints against peace officer certification based upon reports of misconduct.

Case #1 – Joseph J. Bommarito. Chief Sheridan made a motion to initiate proceedings, seconded by Ms. Flores, motion carried unanimously.

Case #2 – Ray B. Duran. Director Vanderpool made a motion to initiate proceedings, seconded by Chief Sheridan, motion carried unanimously.

Case #3 – Wendell T. Hunt. Mr. Duarte made a motion to initiate proceedings, seconded by Chief Huntsman, motion carried unanimously.

Case #4 – Tommy W. Kanuck. Ms. Flores made a motion of initiate proceedings and offer a consent agreement, seconded by Director Vanderpool, motion carried unanimously.

Case #5 – Nathan A. Kirch. *Sgt. Villar recused herself from voting and participation.* Mr. Duplissis made a motion to initiate proceedings, seconded by Director Vanderpool, motion carried unanimously.

Case #6 – Brandi L. Kuhlman. Chief Sheridan made a motion to close the case with No Action, seconded by Ms. Flores, motion carried unanimously.

Case #7 – Michael McFadden. *Director Vanderpool recused himself from voting and participation.* Dr. Polakowski made a motion to initiate proceedings and offer a consent agreement, seconded by Chief Sheridan, motion carried unanimously.

Case #8 – Steve J. Muell. Chief Huntsman made a motion to initiate proceedings and offer a consent agreement, seconded by Ms. Flores, motion carried unanimously.

Case #9 – Daniel L. Rush. Director Vanderpool made a motion to initiate proceedings and offer a consent agreement, seconded by Chief Sheridan, motion carried unanimously.

Case #10 – Michael Thomas. Chief Sheridan made a motion to initiate proceedings and offer a consent agreement, seconded by Mr. Duplissis, motion carried with one nay vote.

Case #11 – Jon E. Tureaud. Director Vanderpool made a motion to initiate proceedings, seconded by Mr. Duarte, motion carried unanimously.

Case #12 – Timothy T. Yazzie. Director Vanderpool made a motion to initiate proceedings, seconded by Sgt. Villar, motion carried unanimously.

Case #13 – Christopher Lewis. Chief Sheridan made a motion to dismiss the case, seconded by Dr. Polakowski, motion carried unanimously.

J. FINAL ACTION CASES: Consideration and possible action on the certified status of peace officers.

Case #1 – Kenneth J. McLaughlin – Arizona Department of Public Safety. *Director Vanderpool recused himself from voting and participation.* The Board considered comments from Assistant A.G. Diana Stabler and Mr. Dale Norris, attorney for Mr. McLaughlin. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision and to modify the sanction, and suspend peace officer certification for a period of 6 months, seconded by Sgt. Villar, motion carried unanimously.

Case #2 – Kenneth R. Neal – Phoenix Police Department. *Assistant Chief Anderson recused himself from voting and participation.* Ms. Flores made a motion to adopt the Consent Agreement, Order and Decision to suspend peace officer certification for a period of one year or until lapse, whichever comes first, seconded by Mr. Duplissis, motion carried with one nay vote.

Case #3 – Luisa A. Placencio – Marana Police Department. The Board considered comments from Assistant A. G. Diana Stabler and Ms. Placencio. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision to suspend peace officer certification for a period of 6 months, seconded by Deputy Director Phelps, motion carried unanimously.

Case #4 – Christopher J. Potten – Phoenix Police Department. *Assistant Chief Anderson recused himself from voting and participation.* The Board considered comments from Assistant A.G. Diana Stabler and Mr. Dale Norris, attorney for Mr. Potten. Chief Sheridan made a motion to revoke peace officer certification, seconded by Dr. Polakowski, motion carried with 2 nay votes.

Case #5 – Christopher Treadway – Phoenix Police Department. *Assistant Chief Anderson recused himself from voting and participation.* Dr. Polakowski made a motion to adopt the Consent Agreement, Order and Decision, voluntary relinquishment of certification, seconded by Director Vanderpool, motion carried unanimously.

Case #6 – Richard D. Aranda – Pinal County Sheriff's Office. *Director Vanderpool and Sgt. Villar recused themselves from voting and participation.* Chief Sheridan made a motion to adopt the Findings of Fact

and Conclusions of Law and suspend peace officer certification for one year, beginning September 21, 2005 to September 21, 2006, seconded by Ms. Flores, motion carried unanimously.

Case #7 – Paul G. Blair – Oro Valley Police Department. The Board considered comments from Assistant A.G. Diana Stabler and Mr. Steve Primack, attorney for Mr. Blair. Chief Huntsman made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Sheridan, motion carried with 3 nay votes.

Case #8 – William R. Cramer – Arizona Department of Public Safety. *Director Vanderpool recused himself from voting and participation.* Ms. Flores made a motion to adopt the Findings of Fact and Conclusions of Law and deny peace officer certification, seconded by Sgt. Villar, motion carried unanimously.

Case #9 – Jason E. Heil – Flagstaff Police Department. Dr. Polakowski made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for one year, seconded by Mr. Duarte, motion died with 6 nay votes. Sgt. Villar made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Director Vanderpool, motion carried with 2 nay votes.

Case #10 – Marty K. Lee – Winslow Police Department. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Dr. Polakowski, motion carried unanimously.

Case #11 – Ray F. Miramontes – Douglas Police Department. The Board considered comments from Assistant A.G. Diana Stabler, Mr. Miramontes, Lt. Salazar and Sgt. Valenzuela. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for one year, beginning October 8, 2004, seconded by Ms. Flores, motion carried unanimously.

Case #12 – Jason T. Prichard – Lake Havasu City Police Department. The Board considered comments from Assistant A.G. Diana Stabler and Ms. Donna McDaniel, attorney for Mr. Prichard. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for 6 months, and require sensitivity training chosen by the state at Mr. Prichard's expense prior to reactivation, beginning October 28, 2004, seconded by Mr. Duarte, motion carried with 5 nay votes.

Case #13 – Patrick J. Robinson – Mesa Police Department. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for 6 months, beginning September 21, 2005, seconded by Sgt. Villar, motion carried with 3 nay votes.

K. ADJOURN

Chairman Butler adjourned the meeting at 2:57 p.m.

Dated September 23, 2005

Lois Sherlock, Recording Secretary